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## RECENT CASES.

## RAILROADS.

*Railroads—Intersection.*—*Carolina Cent. R. Co. v. Wilmington St. Ry. Co.*, 26 S. E. Rep. 913 (N. C.) A railroad company, having built a bridge over its tracks, of sufficient strength for travel by foot and horse and ordinary vehicle transportation, is not obliged to render same safe for passage of street railway cars, said passage being an additional servitude and necessitating the contribution by the street railway company to the maintenance thereof.

*Street Railroads—Nuisance—Injunction Against—Right of Individuals.*—*Central Crosstown Ry. Co. v. Metropolitan St. Ry. Co.*, 44 N. Y. Sup. 752. Although the unauthorized construction and operation of a street railroad in a public street by defendant company is a public nuisance, plaintiff railroad company, which already had a line in operation in the same street, may enjoin the operation of defendant railroad, where it is shown that it will come into competition with plaintiff line, thus causing it special and irreparable damage, the amount thereof not being capable of ascertainment (see Sec. 102 of the Railroad Law). The case is not essentially different from *Forty-Second Street R. Co. v. Thirty-Fourth St. R. R. Co.*, 52 N. Y. Super. Ct. 252, where the action was brought previous to the construction of defendant's road.

*Street Railroads—Paralleling Railroad—Ultra Vires.*—*New England R. R. Co. v. Central Railway and Electric Company, et al.*, 36 Atl. Rep. 1061 (Conn.) A railroad company which does not have an exclusive franchise is not injured in any of its legal or equitable rights by the construction of a street railway parallel to its lines even though such street-railway is to be constructed by *ultra vires* acts.

*Additional Servitude—Occupation of Streets by Railroads.*—*Chicago & N. W. Ry. Co. v. Milwaukee, R. & K. Electric Ry. Co.*, 70 N. W. Rep. 678 (Wis.). Upon an application for an injunction against a street railway it was held that a commercial railway upon public streets and highways which engaged to carry besides passengers, merchandise, personal baggage, mail and express matter,

would tend to obstruct and interfere with the ordinary uses of a street and highway and impose an additional servitude upon the lands of abutting owners.

## TELEGRAPH.

*Telegraph Companies—Failure to Deliver—Notice of Special Circumstances—Measure of Damages.—Western Union Tel. Co. v. Carver*, 39 S. W. Rep. 1021 (Texas). Where a telegram directs the person addressed to purchase cattle at a specific price per head and to "get all you can," it is sufficient to put the telegraph company on notice as to the incidental facts of the transaction and to render it liable to the sender for loss resulting from non-delivery; and where there was a subsequent permanent advance in the price of the cattle, the measure of damages is the difference between the price named in the message and the price at which they could have been bought at the time when it was learned of the non-delivery of the telegram.

*Telegrams—Insufficient Address.—Western Union Tel. Co. v. Birchfield*, 39 S. W. Rep. 1002 (Texas). It is no excuse for negligence in delivering a telegram that it had no specific address, but was directed "care some hotel," since, in the absence of any address, it would have been the duty of the telegraph company to ascertain if the party was at any hotel in that city.

## RIGHTS OF CREDITORS.

*Power to Dispose of Property by Will—Effect of Execution—Rights of Creditors of Testator.—Freeman's Adm'r et al. v. Butters et al.*, 26 S. E. Rep. 845 (Va.). Where the personal property of a widow is not sufficient to satisfy her debts, and she has willed to volunteers, during her widowhood, property left to her by her husband with absolute power of disposal by will, her creditors may levy on said property in satisfaction of their claims.

*Partnership—Rights as to Third Persons—Payment of Individual Debts.—In re Lafferty's Estate, appeal of Linde*, 37 Atl. Rep. 113 (Penn.). Where an executor wrongfully uses funds of an estate and repays them with money belonging to a firm of which he is a member, the estate is not liable to the firm when it was unaware that it was partnership money.

## PROCEDURE.

*Appeal—Abatement.—Nickerson v. Nickerson*, 48 Pac. Rep. 423 (Ore.). The death of a husband, who has appealed from a de-